

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MALIBU MEDIA, LLC,

Plaintiff,

v.

JOHN DOE,

Defendant.

Civil Action No.
2:13-cv-12202-PDB-DRG

Hon. Paul D. Borman
United States District Judge

Hon. David R. Grand
United States Magistrate Judge

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**STIPULATED MOTION OF MALIBU MEDIA, LLC, AND COMCAST
SUBSCRIBER ALPHA, FOR AN ADDITIONAL EXTENSION OF
TIME AND FOR LEAVE TO SUBMIT MEDICAL RECORDS
IN CAMERA FOR REVIEW BY THE COURT**

The Plaintiff, Malibu Media, LLC, and the movant previously identified as Comcast Subscriber Alpha (“Subscriber”), respectfully and jointly pray for two things.

First, under R7(b) of the Electronic Filing Policies and Procedures for the Eastern District of Michigan, and Local Rule 5.3(b), we ask for leave from this honorable Court for the Subscriber’s counsel to submit certain hospital records from June, 2013, *in camera*, for

**Joint Motion for Leave to Submit Medical
Records *In Camera* and Motion for Extension
of Time, in *Malibu Media, LLC v. Doe*,
C.A. No. 2:13-cv-12202-PDB (E.D. Mi.).**

the Court to review. Without disclosing the Subscriber's identity directly (i.e., revealing name or address) or indirectly (i.e., disclosing the name or location of the hospital, the names of treating medical personnel, or other information that could be used to infer the Subscriber's identity indirectly), we would ask that the Court provide written confirmation for the benefit of Malibu Media of the dates of treatment, the Subscriber's diagnosis, any procedures performed, and such other information about the Subscriber's medical condition that the Court deems reasonable and appropriate under the circumstances.

So long as the information checks out, the parties reasonably anticipate that this civil action can be wrapped up quickly.

The second thing the parties jointly request is a reasonable extension of time, perhaps twenty-one (21) days, before Subscriber is required to renew and supplement the Subscriber's Motion to Quash and for Protective Order.

Assuming that a medical hardship actually exists, the attorneys for both sides do not want to impose on the Subscriber's family any more legal expense than necessary to confirm the presence of the medical hardship. A reasonable extension of time should enable the review of medical records by the Court to take place, and should enable Malibu Media to make a fair determination about whether to treat this case as a medical hardship case. We propose a twenty-one (21) day extension of the existing deadline for the Subscriber's legal counsel to supplement and renew the Subscriber's motion to quash and for protective order.

SUPPORTING BRIEF

This case involves an unusual circumstance. The notification letter from Comcast, announcing that a lawsuit had been filed and that the Subscriber's identity was being sought as part of the discovery process, arrived just a matter of days after the Subscriber had been hospitalized. Specifically, on the evening of June 15, 2013, the Subscriber presented at a hospital someplace in the state of Michigan, with an acute neurological problem. Following medical examination and testing, the problem was determined to be an acute stroke from occlusion of the intracranial internal carotid artery. Because the stroke was causing Subscriber to have difficulty feeding himself, a PEG tube was inserted surgically to assist with feeding. Subscriber was released to a skilled nursing facility for rehabilitation.

Counsel for the Subscriber represents both the Subscriber and some other members of the Subscriber's family, including the Subscriber's daughter. The daughter has been acting as an intermediary for the Subscriber, because of the Subscriber's medical condition.

Malibu Media understandably is seeking reliable confirmation of the Subscriber's medical condition, and Malibu feels that this confirmation is more reliable if it comes from a federal judge, than if it comes from opposing counsel.

Subscriber's counsel have received hospital records (not nursing facility records), confirming that the stroke occurred, and providing enough detail to confirm the severity of the Subscriber's medical condition.

What the parties have agreed to do is for Subscriber's counsel to submit the hospital records to this honorable Court under seal, for *in camera* review by the judge (so as to protect

against directly or indirectly providing the Subscriber's identity). The Court can then confirm, based on the medical records, that the Subscriber has suffered a stroke, and provide such other reasonable detail about the Subscriber's medical condition, that the Court deems appropriate.

We believe that Rule 26(c) of the FEDERAL RULES OF CIVIL PROCEDURE, which grants this honorable Court broad authority to issue protective orders as part of the discovery process, supplies sufficient authority to approve this process. We also rely upon R7(b) of the Electronic Filing Policies and Procedures for the Eastern District of Michigan, and Local Rule 5.3(b).

In addition to requesting leave to submit the records for *in camera* review, the parties jointly seek a reasonable extension of time – twenty-one (21) days seems appropriate – for the due-date for the Subscriber's renewed and supplemented Motion to Quash and for Protective Order. We anticipate that the court's confirmation of the Subscriber's medical condition, is likely to render the Motion to Quash unnecessary. Accordingly, it only makes sense to minimize any financial burden to the Subscriber and family, related to motion preparation, in the meantime.

August 14, 2013

Respectfully submitted,

/s/ with consent of Paul J. Nicoletti
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Respectfully submitted,

/s/ Eric C. Grimm

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CERTIFICATE OF SERVICE

I certify that the foregoing Stipulated Motion For An Extension of Time and for Leave to Submit Medical Records *In Camera*, was filed through the Court's ECF system on August 14, 2013, and that it is being automatically served on all counsel of record through the ECF system. A proposed order will be submitted separately.

Respectfully submitted,

/s/ Eric C. Grimm

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